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C O N F I D E N T I A L BRASILIA 001035

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STATE FOR L JOHNSON AND L/LEI, WHA/BSC, WHA/CHRIS McMULLEN,
DEPARTMENT OF JUSTICE FOR SWARTZ AND OIA, DRUG ENFORCEMENT
ADMINISTRATION FOR OGC JOHN WALLACE, DEA REGION DIRECTOR US
EMBASSY LA PAZ PATRICK STANKEMP

E.O. 12958: DECL: 07/25/2018

TAGS: KJUS KCRM CJAN PREL CVIS SNAR BR

SUBJECT: UPDATE AND ACTION REQUEST ON ABADIA EXTRADITION

REF: A. STATE 079928
1B. BRASILIA 000999
1C. STATE 76939

Classified By: Charge d'Affaires Lisa Kubiske for reason 1.5 (d)

1. (C) As a follow up to ref a instructions, Post, on July 24, 2008, once again contacted Ministry of Justice Legal Advisor, Rafael Tomaz Favetti regarding the expulsion of Juan Carlos Ramirez Abadia (Chupeta). Favetti advised Post that he had encountered stiffer opposition within the Ministry than he expected and now doubts that the order of expulsion can occur at all. Moreover, Favetti explained that there are three obstacles from the U.S. perspective should the expulsion be ordered: (1) expulsion would take effect only after Abadia serves his 30 year Brazilian sentence; (2) expulsion would be to the country of origin; and (3) most importantly, he confided that he had discussed the issue with Minister Genro, who noted to Favetti that if the United States wanted the expulsion, any consequences are "on the Americans". In other words, if the expulsion caused problems for the Lula administration, whether from the judiciary and the press, the United States will take the blame as the Minister of Justice will deflect any negative repercussions at America's door. Post expended large amounts of political, intelligence, and judiciary equities in running this extradition request to ground. In the short term, Washington needs to decide whether to provide the assurances in order to extradite Abadia or allow the subject to remain in Brazil without any hope of being removed to the United States; in the long run, Post highly recommends that the DOJ/OIA and State/L send representatives to Brasilia to take part in future extradition dialogues with the GOB in order to resolve the assurances issue.

12. (C) Action request: As a result of this new conversation, it is now clear that Brazil will not provide any cover to the United States in its pursuit of the expulsion of Abadia. Continuing to pursue the expulsion option will leave the United States in an extremely vulnerable political position and jeopardize any future extraditions and law enforcement intelligence cooperation. As this point, we see no other course of action to assure Abadia's removal from Brazilian territory than to provide the assurances the Brazilian Supreme Court has demanded.

13. (C) Post urgently request immediate instructions.
KUBISKE